

REMARKS

The Office Action dated April 3, 2007, and the patents relied on therein have been carefully reviewed, and in view of the above changes and following remarks reconsideration and allowance of all the claims pending in the application are respectfully requested.

Claims 1-40 stand rejected. By this Amendment, claims 1, 11-15, 28-31 and 38-40 have been amended. Claims 1-40 remain pending.

Amendments To The Specification

Applicant has amended the specification, as set forth above, to address several informalities. It is noted that these changes are directed merely to form and minor informalities. Therefore, these changes do not narrow claim scope and no prosecution-history estoppel results from the amendments.

Amendments To The Claims

Applicant has amended claims 1, 15 and 31 to better distinguish the claimed subject matter over the applied art. In the regard, each of claims 1, 15 and 31 have been amended to now require that the claimed filing system comprises information for each data block of the file indicating a number of files in the filing system that require the data block for rebuilding another file. Support for this amendment can be found throughout the specification, for example, at least in paragraph 24 of the originally filed patent application.

Additionally, Applicant has amended claims 1, 11-14, 28-30 and 38-40 to generally improve their respective forms in accordance with U.S. patent law. In particular, in claims 1, 12-14, 28-30 and 38-40, Applicant has replaced the word “containing” with “comprising” and the word “is” with “comprises”. In claim 11, Applicant has replaced the word “spacer” with “space”. It is noted that these minor changes to claims 1, 11-14, 28-30 and 38-40 are directed to formal matters, are not in response to prior art, and do not narrow the scope of the amended claims. Therefore, no prosecution-history estoppel results from these amendments.

The Rejection Under 35 U.S.C. § 102(b) Over Velez-McCaskey

Claims 1-3, 5, 6, 8-10 and 12-14 stand rejected under 35 U.S.C. § 102(b) as anticipated by Velez-McCaskey et al. (Velez-McCaskey), U.S. Patent No. 6,098,128.

Applicant has amended independent claim 1, as described above.

Applicant respectfully traverses this rejection because the subject matter according to any of claims 1-3, 5, 6, 8-10 and 12-14 is not anticipated by Velez-McCaskey. Moreover, the subject matter of claims 1-3, 5, 6, 8-10 and 12-14 is patentable over Velez-McCaskey. Regarding amended claim 1, Applicant respectfully submits that Velez-McCaskey does not disclose or suggest a filing system comprising a policy manager comprising at least one rule relating to block-level storage for a RAID level of protection for a file stored on the plurality of storage units, the RAID level of protection being selected from a plurality of RAID levels of protection, and at least one rule being based on an access pattern of files stored on the plurality of storage units, such that the filing system comprises information for each data block of the file indicating a number of files in the filing system that require the data block for rebuilding another file. More specifically, Velez-McCaskey is completely silent regarding a filing system comprising information for each data block of a file indicating a number of files in the filing system that require the data block for rebuilding another file.

Accordingly, amended claim 1 is allowable over Velez-McCaskey. It follows that claims 2, 3, 5, 6, 8-10 and 12-14, which each incorporate the limitations of amended claim 1, are each allowable over Velez-McCaskey for at least the same reason that amended claim 1 is considered allowable.

Consequently, Applicant respectfully requests that the Examiner withdraw this rejection and allow claims 1-3, 5, 6, 8-10 and 12-14.

The Rejection Under 35 U.S.C. § 103(a) Over Velez-McCaskey In View of Bright

Claims 4 and 11 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Velez-McCaskey in view of Bright et al. (Bright), U.S. Patent No. 7,085,819 B2.

Applicant respectfully traverses this rejection. Applicant respectfully submits that Bright does not cure the deficiencies of Velez-McCaskey with respect to amended claim 1, the base claim of each of claims 4 and 11. In particular, Bright does not disclose or suggest a filing system comprising information for each data block of a file indicating a number of files in the filing system that require the data block for rebuilding another file.

Consequently, Applicant respectfully requests that the Examiner withdraw this rejection and allow claims 4 and 11.

The Rejection Under 35 U.S.C. § 103(a) Over Velez-McCaskey In View of Gotoh

Claim 7 stands rejected under 35 U.S.C. § 103(a) as unpatentable over Velez-McCaskey in view of Gotoh, U.S. Patent No. 6,223,300 B1.

Applicant respectfully traverses this rejection. Applicant respectfully submits that Gotoh does not cure the deficiencies of Velez-McCaskey with respect to amended claim 1, the base claim of claim 7. In particular, Gotoh does not disclose or suggest a filing system comprising information for each data block of a file indicating a number of files in the filing system that require the data block for rebuilding another file.

Consequently, Applicant respectfully requests that the Examiner withdraw this rejection and allow claim 7.

The Rejection Under 35 U.S.C. § 103(a) Over Velez-McCaskey In View of Frey, Jr.

Claims 15-20, 22, 24-26, 28-36 and 38-40 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Velez-McCaskey in view of Frey, Jr., U.S. Patent No. 6,742,137 B1.

Applicant has amended independent claims 15 and 31, as described above.

Applicant respectfully traverses this rejection. Applicant respectfully submits that the subject matter according to any of claims 15-20, 22, 24-26, 28-36 and 38-40 is patentable over Velez-McCaskey in view of Frey, Jr.

Regarding amended claim 15, Applicant respectfully submits that neither Velez-McCaskey nor Frey, Jr. disclose or suggest a filing system comprising information for each data block of a file indicating a number of files in the filing system that require the data block for rebuilding another file. As previously demonstrated, Velez-McCaskey is silent in this regard. Additionally, Frey, Jr. is similarly silent in this regard.

Thus, amended claim 15 is allowable over Velez-McCaskey in view of Frey. It follows that each of claims 16-20, 22, 24-26 and 28-30, which each incorporate the limitations of amended claim 15, are each allowable for at least the same reason that amended claim 15 is considered allowable.

Regarding amended claim 31, Applicant respectfully submits that neither Velez-McCaskey nor Frey disclose or suggest a filing system comprising information for each data block of a file indicating a number of files in the filing system that require the data block for

rebuilding another file. As previously demonstrated, Velez-McCaskey is silent in this regard. Additionally, Frey, Jr. is similarly silent in this regard.

Thus, amended claim 15 is allowable over Velez-McCaskey in view of Frey, Jr. It follows that each of claims 32-36 and 38-40, which each incorporate the limitations of amended claim 31, are each allowable for at least the same reason that amended claim 31 is considered allowable.

Consequently, Applicant respectfully requests that the Examiner withdraw this rejection and allow claims 15-20, 22, 24-26, 28-36 and 38-40.

**The Rejection Under 35 U.S.C. § 103(a) Over Velez-McCaskey
In View of Frey, Jr. And Further In View Of Gotoh**

Claims 21 and 23 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Velez-McCaskey in view of Frey, Jr. and further in view of Gotoh.

Applicant respectfully traverses this rejection. Applicant respectfully submits that Gotoh does not cure the deficiencies of Velez-McCaskey and Frey, Jr. with respect to amended claim 15, the base claim of both claims 21 and 23. In particular, none of Velez-McCaskey, Frey, Jr. and Gotoh discloses or suggests a filing system comprising information for each data block of a file indicating a number of files in the filing system that require the data block for rebuilding another file.

Consequently, Applicant respectfully requests that the Examiner withdraw this rejection and allow claims 21 and 23.

**The Rejection Under 35 U.S.C. § 103(a) Over Velez-McCaskey
In View of Frey, Jr. And Further In View Of Bright**

Claims 27 and 37 stand rejected under 35 U.S.C. § 103(a) as unpatentable over Velez-McCaskey in view of Frey, Jr. and further in view of Bright.

Applicant respectfully traverses this rejection. Applicant respectfully submits that Bright does not cure the deficiencies of Velez-McCaskey and Frey, Jr. with respect to amended claims 15 and 31, the respective base claims of claims 27 and 37. In particular, none of Velez-McCaskey, Frey, Jr. and Bright discloses or suggests a filing system comprising information for

each data block of a file indicating a number of files in the filing system that require the data block for rebuilding another file.

Consequently, Applicant respectfully requests that the Examiner withdraw this rejection and allow claims 27 and 37.

Applicant notes that additional patentable distinctions between Velez-McCaskey, Bright, Gotoh and Frey and the rejected claims exist; however, the foregoing is believed sufficient to address the Examiner's rejections. Additionally, failure of Applicant to respond to a position taken by the Examiner is not an indication of acceptance or acquiescence of the Examiner's position. Instead, it is believed that the Examiner's positions are rendered moot by the foregoing and, therefore, it is believed not necessary to respond to every position taken by the Examiner with which Applicant does not agree.

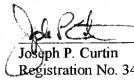
CONCLUSION

In view of the above amendments and argument, it is urged that the present application is now in condition for allowance. Should the Examiner find that a telephonic or personal interview would expedite passage to issue of the present application, the Examiner is encouraged to contact the undersigned attorney at the telephone number indicated below.

It is requested that this application be passed to issue with claims 1-40.

Respectfully submitted,

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